

Deborah J. Pimentel, In Pro Per
CA SBN 115182
6644 Wooster Court
Castro Valley, CA 94552
510 886 8933

FILED
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RICHARD H. WICKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEBORAH J. PIMENTEL,

) Case No.: C08-00249 MMC
)
) Plaintiff,)

vs.

) PLAINTIFF'S NOTICE OF MOTION AND MOTION
) FOR CONTINUANCE PURSUANT TO FRCP 6-3,
) DECLARATION IN SUPPORT THEREOF AND
) PROPOSED ORDER

THOMAS J. ORLOFF, NANCY O'MALLEY,
G. RICHARD KLEMMER, DAVID C. BUDDE,
THE DISTRICT ATTORNEY'S OFFICE OF
ALAMEDA COUNTY, THE COUNTY OF
ALAMEDA, DOES 1 - 10,

)
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)
)
)
)
) Defendants.)

TO: DEFENDANTS AND THEIR ATTORNEY OF RECORD HEREIN:

PLAINTIFF DOES AND HEREBY MOVES for an ORDER enlarging the time for Plaintiff to file her
Response to Motion to Dismiss [FRCP 12(b)(6)] pursuant to FRCP 6-3, based on the Declaration herein
and in the interests of justice.

DECLARATION

I, Deborah J. Pimentel, declare as follows:

1. a. On or about June 2, 2008, my 16-year-old daughter became ill;
- b. On or about June 7, 2008, I received Defendants' Motion to Dismiss herein;
- c. On June 9, 2008, my daughter's illness became severe and she was admitted to
Kaiser Hospital in Hayward;
- d. On June 11, 2008, she underwent emergency surgery;
- e. On June 12, 2008, she was released to recover at home;
- f. On June 13, 2008, it was discovered she had contracted an infection at the hospital
for which she required further treatment;

- g. During her stay at the hospital, I was at her side night and day;
- h. Upon her return home I was her sole source of care;
- i. Her recovery took approximately ten days, during which time I was unable to focus on anything but her care and welfare.
- j. Upon her recovery I began research for my Response to Defendants' Motion to Dismiss and realized I had missed the filing deadline.

2. On Friday evening, June 27, 2008, I attempted to call Defense Counsel Diane Graydon to inquire whether she would stipulate to continue the Motion to Dismiss but realized it was after hours. On Monday morning, June 30, 2008, I left a message for Ms. Graydon to call me, explaining my dilemma in detail. At noon I had still not heard from Ms. Graydon, so I called her again. She stated she had listened to my message and refused to accommodate my request. I reiterated the reason for my request and she stated that I would have to file the within Motion as she would not agree to change the hearing date.


3. Should this Court not grant the within Motion, Plaintiff will not be able to contest the Motion to Dismiss and may be irreparably harmed, in that the Motion to Dismiss may be granted and Plaintiff will not have the opportunity to have her Complaint adjudicated on the merits.

4. There have been no other time modifications in this case.

5. The granting of this Motion should have no effect on any future dates in this matter.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 30th day of June, 2008.


Deborah J. Pimentel, *In Pro Per*

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ORDER

GOOD CAUSE APPEARING, IT IS THE ORDER OF THIS COURT THAT

Defendants' Motion to Dismiss is set for _____; IT IS FURTHER
ORDERED THAT Plaintiff shall file and serve any Response to the Motion to Dismiss not later than

_____.

Dated: _____

The Honorable MAXINE M. CHESNEY
Judge, United States District Court

PROOF OF SERVICE

I, Jacob Wood, declare that:

I am a citizen of the United States, over the age of 18 years and not a party to the within-entitled action. My address is 16634 KENTAVE, San Lorenzo, CA 94580.

On June 30, 2008, I served Plaintiff's Motion to Enlarge Time for Filing, Declaration and Proposed Order on:

Diane C. Graydon
Deputy County Counsel
Office of County Counsel
Alameda County
1221 Oak Street, Suite 450
Oakland, CA 94612

By placing a true and correct copy of the above document(s) in a sealed envelope addressed to the above party or parties at the address(es) above with postage thereon fully prepaid and placed said envelope(s) in the United States mail in the City of San Lorenzo, California.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at San Lorenzo, California, on June 30, 2008.



Jacob Wood